



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 30 2008

Steven J. Ding

Stockton, CA 95212

RE: MUR 6010

Dear Mr. Ding:

On May 19, 2008, the Federal Election Commission notified you of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). On December 18, 2008, the Commission found, on the basis of the information in the complaint, and information provided by Partnership for America and McClintock for Congress, that there is no reason to believe that you violated the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's findings, are enclosed for your information.

If you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen A. Gura".

Stephen A. Gura
Deputy Associate General Counsel
for Enforcement

Enclosures
Factual and Legal Analysis

29044224017

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

Respondent: Steven J. Ding

MUR: 6010

I. INTRODUCTION

This matter arises from a complaint alleging that Steven J. Ding violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by soliciting funds for an "illegal independent expenditure and/or issue advocacy 'campaign'" run by Partnership of America, to influence the outcome of the June 3, 2008 Republican primary election. Complaint at 2 and Exh. A.

II. FACTUAL AND LEGAL ANALYSIS

Tom McClintock is a California state senator and was the 2008 Republican nominee for the House of Representatives for California's Fourth Congressional District. Partnership for America is a nonprofit corporation organized under 26 U.S.C. § 501(c)(4) and headquartered in Colorado. It is "comprised of Americans who support public policies that seek to restore a common sense balance between economic growth and environmental conservation." See <http://www.partnershipforamerica.org>. The organization's stated goals are to create "environmentally sound development" and "access to affordable and reliable supplies of goods," and to boost "economic growth" through job creation. See <http://www.partnershipforamerica.org/about/whatwebelieve.asp>.

The complaint alleges that, on or about April 22, 2008, Steven J. Ding, as an agent of Mr. McClintock, solicited excessive and prohibited contributions for Partnership for America's "independent expenditure" "campaign" at an Indian gaming tribes conference and by e-mail. See Complaint at 2-4 and Exh. B. The complaint asserts that at the time of the meeting, Mr. Ding was a paid "employee/consultant" of McClintock for

1 Congress, Mr. McClintock's principal campaign committee. See *id.* at 4 and Exhs. A, C.
2 By contrast, the article attached to the complaint states that Mr. Ding "was on
3 McClintock's campaign payroll until a few weeks" before the meeting. Complaint Exh.
4 B (David Whitney, McClintock Independent Campaign Effort Questioned, The
5 Sacramento Bee, Apr. 26, 2008, available at <http://www.sacbee.com/111/story/891275.html>).

6 The complaint attaches a three-page document entitled, "CA-4
7 CONGRESSIONAL ISSUE ADVOCACY CAMPAIGN," that, according to
8 the complaint, was prepared and distributed by Partnership for America through its agent,
9 Mr. Ding. See *id.* at Exh. A. The document states that Partnership for America "is
10 launching a campaign to highlight certain issue positions [of] the candidates in the Fourth
11 District of CA," proposes a timeline of activities and a budget of \$660,000 for the
12 primary campaign, and describes its strategy and purpose as follows:

13 We will aim to create a political environment by which the most
14 conservative candidate's messages on taxes, economic development; gun
15 rights; immigration, and other key issues will lead to higher turnout among
16 like minded people who care about those issues. That, in turn, will create
17 a better scenario for the conservative candidate (who is aligned with our
18 beliefs) to achieve victory in the primary as well as the general election in
19 November.

20 *Id.* at Exh. A. According to the complaint, Mr. McClintock frequently touted himself in
21 communications as "the most conservative" candidate in the primary election. See *id.* at
22 4.

23 While the complaint alleges that "it is believed" that Mr. Ding solicited funds for
24 McClintock for Congress, there is no information that this occurred and McClintock for
25 Congress specifically denied having any knowledge or information with respect to any
26 such solicitation by Mr. Ding. Even if true, these actions are not a violation of the Act.
27 Also, the article attached to the complaint cited as support for this allegation states only

1 that Mr. McClintock solicited for his campaign and Mr. Ding solicited for Partnership for
2 America at the conference.

3 Although the complaint alleges that Mr. Ding acted as Mr. McClintock's agent in
4 soliciting funds for Partnership for America, the McClintock committee stated in its
5 response that it ceased using Mr. Ding's services after April 9, 2008, and that Mr.
6 McClintock never solicited funds for Partnership for America. Even if true, there is no
7 information that Mr. Ding's solicitations resulted in a violation of the Act. Mr. Ding did
8 not file a response, but since there is no liability based on facts within the complaint and
9 on publicly-available information, there is no reason to believe that Mr. Ding violated the
10 Act.